

February 11, 2014

North Carolina General Assembly
Legislative Research Committee

RE: Use of Unmanned Aircraft Systems

Dear Honorable Committee Members:

I support the use of Unmanned Aircraft Systems (UAS) by law enforcement agencies. The benefits that can be obtained to increase public safety are many.

Unmanned Aircraft Systems, like any other tool, has potential for abuse. But the abuse is limited to what can be observed from a distance, and for those areas where citizens have an expectation of privacy, the use can be adequately regulated.

In Brunswick County, we are responsible for over 850 square miles, most of which is rural. Brunswick County is also a coastal community, with many waterways. We have become a popular retirement destination, and therefore a large segment of our county's population is senior citizens. Brunswick county is home to the largest military munitions shipping depot on the east coast, and a nuclear power plant, which are both adjacent to the Cape Fear River. The mouth of the Cape Fear River, which is the gateway to Wilmington and the North Carolina State Port, is in Brunswick County.

The Brunswick County Sheriff's Office is fortunate to have a helicopter, provided through the LESS program, and a qualified pilot. Our helicopter has been used in the following situations:

- To assist in search operations of missing adults (Project Lifesaver) and children
- To assist in search operations of drowning victims
- To patrol the waterways, and the Cape Fear River
- To assist in marijuana eradication
- To provide a safe observation platform during emergencies such as hostage situations or barricaded suspects
- To provide visual access to areas of the county that are difficult to reach, such as swamp lands and islands along and within the Cape Fear River

Barriers to use of the manned helicopter are:

- The limited availability of the pilot. Our pilot is also a full-time detective, who must be pulled from other duties to fly the helicopter. The time and expense associated with training additional pilots is cost prohibitive.

- The extended time necessary to get the helicopter airborne, which includes travel to the airport and pre-flight requirements.
- The expense of maintenance and operation of the aircraft.

We anticipate using an unmanned aircraft in similar situations, with the ability to deploy a UAS more quickly and with less expense. There is no practical difference between the use of a manned versus an unmanned aircraft on the general public, and there should be no legal distinction between the two, with the possible exception of an altitude restriction over residential areas.

To the extent that unmanned aircraft systems may cause a safety hazard to manned aircraft operations, UAS should obviously be regulated. The other major concern over UAS, simply stated, is that the technology has the potential to invade people's privacy.

Technological advances have brought to society such things as binoculars, powerful flashlights, thermal imagers. All of which aid observation. All of which, if misused, can violate a person's constitutionally protected right to privacy. Rather than the legislatures attempting to regulate every new technology, society has relied on the courts to apply the constitutional protections to a given set of facts.

The Supreme Court addressed the use of a search light by the Coast Guard to observe crates of liquor on a dark boat, by saying, "Such use of a searchlight is comparable to the use of a marine glass or a field glass. It is not prohibited by the Constitution." United States v. Lee, 274 U.S. 559 (1927).

The Supreme Court addressed the use of a thermal imager by police to detect a marijuana growing operation within a house, by holding that where police obtain information about the inside of a home without physical intrusion, using a device not normally used by the public, the police action constitutes a Fourth Amendment search and is presumptively unreasonable without a warrant. Kyllo v. United State, 533 U.S. 27 (2001).

I respectfully submit that on the subject of UAS, the interests of the citizens will best be served, and balance between privacy interests and law enforcement needs will best be met if the legislature will consider regulations related to the safe operation of such technology, and allow the courts to continue to apply the Constitutional protections to new technology as it develops.

Respectfully,
John W. Ingram V
Sheriff of Brunswick County